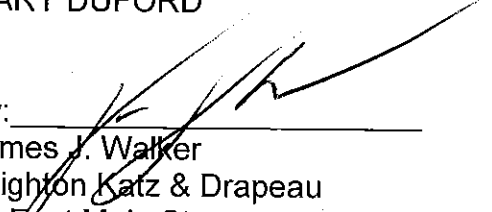


DOCKET NO: AAN-CV-16-60220466S : SUPERIOR COURT
MARY DUFORD : J.D. OF ANSONIA-MILFORD
V. : AT MILFORD
TOWN OF OXFORD : MARCH 10, 2017

MOTION TO CITE IN PARTY DEFENDANT

Pursuant to Connecticut Practice Book Section 9-22, the Plaintiff respectfully moves this court for permission to cite in Paul Chipman d/b/a Cedar Ridge Nursery as a party defendant in the above matter and to serve on it a writ, summons and second amended complaint as attached hereto. Paul Chipman d/b/a Cedar Ridge Nursery is not currently a party to this action but is or may be liable to the Plaintiff, as set forth in the appended complaint. The addition of this Defendant will not unduly delay the prosecution of this action and will not cause an injustice to the Plaintiff or party defendants, but rather, will allow the expeditious adjudication of all claims arising from the event alleged in the Plaintiff's complaint in one action.

PLAINTIFF,
MARY DUFORD

By: 
James J. Walker
Leighton Katz & Drapeau
20 East Main Street
Rockville, CT 06066
Telephone: (860) 875-7000
Juris No. 405909

**ORAL ARGUMENT NOT REQUESTED
TESTIMONY NOT REQUIRED**

ORDER

The foregoing motion having been heard by the Court, it is hereby ORDERED:

That Paul Chipman d/b/a Cedar Ridge Nursery be made an additional Defendant in the present action and that the Plaintiff, Mary Duford, cause to be served upon this Defendant a true and attested copy of the attached second amended complaint on or before _____ with a return date of _____, _____.

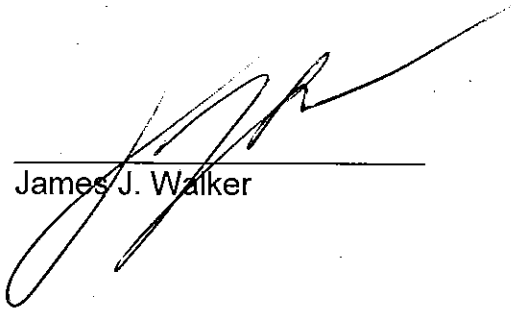
BY THE COURT

Judge / Assistant Clerk

CERTIFICATION

The undersigned hereby certifies that a copy of the foregoing was mailed, postage prepaid, to the following counsel of record on March 10, 2017:

James G. Williams, Esq.
Williams Walsh & O'Connor LLC
37 Broadway
First Floor
North Haven CT 06473



James J. Walker

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SECOND AMENDED COMPLAINT

COUNT ONE: (§13a-149 as to Town of Oxford)

1. At all times mentioned herein, the Plaintiff, Mary Duford, was and is a resident of Oxford, Connecticut.

2. At all times mentioned herein, the Defendant, Town of Oxford, was and is a Municipality located in New Haven County in the State of Connecticut.

3. Among the statutory duties imposed upon the defendant, Town of Oxford, was and is the duty to keep and maintain streets and sidewalks within its territorial limits in a reasonably safe condition for public travel.

4. On or about November 17, 2015, the Plaintiff, Mary Duford, was visiting the Oxford town Hall for a public meeting

5. On said date at approximately 8 P.M., after the meeting ended, the Plaintiff, Mary Duford, was walking along the handicap accessible sidewalk that runs from the north side, or 'rear' of the Town Hall building at 486 Oxford Road, Oxford, CT to the parking lot.

6. At all times mentioned herein, the sidewalk, which was a public walkway within the territorial limits of the Town of Oxford, angles abruptly at a point

approximately six (6) feet from where it joins the parking lot, causing the normal and expected flow and direction of pedestrian traffic upon the sidewalk to be interrupted.

7. At the point where the sidewalk angles abruptly, there is an approximately 3.5 inch raised berm of turf/grass at the outer edge of the sidewalk which has been cut or trimmed at an approximate 90-degree angle to the walkway surface, in such a way that it creates a vertical stub-toe tripping hazard to pedestrians using the sidewalk.

8. At all times mentioned herein, the lighting in the area was very poor and the walkway was not adequately illuminated making the above described stub-toe hazard imperceptible to persons using the sidewalk.

9. At all times mentioned herein, there was also a handrail along one side of the sidewalk, which handrail was defective in that it leaned and angled inwards at the point where the sidewalk angled abruptly, thereby forcing pedestrian traffic to move outwards, away from the encroaching railing and towards the vertical stub-toe tripping condition.

10. As the plaintiff was proceeding along the sidewalk, she came to the area where the sidewalk angles abruptly and she was caused to trip and fall when her foot struck the above described vertical stub-toe tripping condition and she suffered the injuries set forth below.

11. At all times mentioned herein, the sidewalk where the plaintiff fell was a road and or bridge within the meaning of Connecticut General Statutes §13a-149.

12. At all times mentioned herein the Defendant, Town of Oxford, was bound to keep the sidewalk where the plaintiff fell in repair pursuant to Connecticut General Statutes §13a-149.

13. At all times relevant hereto, the plaintiff, Mary Duford, was in exercise of due care.

14. The injuries and losses suffered by the plaintiff were caused solely by the breach of the statutory duties owed by the defendant, Town of Oxford, acting through its agents, servants and/or employees in one or more of the following ways:

a. In that the sidewalk where the plaintiff fell was not reasonably safe for travel because of the presence of an abrupt, hard angle in the sidewalk with a dangerous stub-toe tripping condition at its outer edge and the inward leaning handrail forcing pedestrians to walk towards the hazardous stub-toe tripping condition all in an area with poor and inadequate lighting;

b. In that the defendant knew or, in the exercise of its supervision over such sidewalk, should have known that the sidewalk was not safe due to the existence of the above described hazards yet it failed to repair, redesign, fix or otherwise remedy the hazardous conditions upon the sidewalk despite having ample time to do so.

c. In that the defendant failed to inspect the sidewalk to ensure that it was reasonably safe for travel.

d. In that the defendant created the unsafe stub-toe tripping condition by cutting and/or trimming a hard, vertical edge into the grass and earth at the edge of the sidewalk.

e. In that the defendant failed to remove the hard, vertical berm of earth and grass, failed to keep the grass and earth level and flush with the sidewalk surface and/or otherwise failed to remedy the unsafe stub-toe tripping condition.

f. In that the defendant created the unsafe condition by causing the sidewalk to angle abruptly just prior to where it adjoins the parking lot, so as to interrupt the normal and expected flow and direction of travel upon the sidewalk.

g. In that the defendant improperly installed and/or maintained the handrail alongside the sidewalk in such a manner that it leaned inwards, encroaching the path of pedestrians on the sidewalk.

h. In that the defendant maintained the sidewalk, with all of the aforementioned unsafe conditions in an area with inadequate and insufficient lighting.

i. In that the defendant failed to warn pedestrians of the hazardous and dangerous condition of the sidewalk, including the vertical stub-toe tripping condition.

j. In that the defendant maintained the sidewalk in a dangerous and unsafe condition, and not in compliance with applicable codes and regulations.

k. In that the defendant failed to take the necessary steps to make the sidewalk safe, including eliminating the vertical stub-toe tripping condition to make it flush with the sidewalk surface; straightening the hard abrupt angle at the end of the sidewalk or enlarging the end of the sidewalk so that the normal and expected flow and direction of travel on the sidewalk would not be interrupted; repairing the handrail so that it would not be leaning inwards and encroaching upon the path of pedestrians, and maintaining adequate and sufficient lighting of the sidewalk, despite having reasonable time to take all of these steps to make the sidewalk safe.

15. As a result of the defendant's breach of its statutory duties, the Plaintiff, Mary Duford, has suffered the following serious and painful injuries, some or all of which may be permanent in nature:

a. Injury to her right ankle;

- b. Avulsion fracture of the anterior process of the Calcaneus bone of the right ankle;
- c. Disruption of the ligaments and soft tissues of the right ankle;
- d. Midfoot contusion and pain;
- e. Chronic right ankle and foot pain; and,
- f. Limitation of motion of the right ankle.

16. As a further result of the defendant's breach of its statutory duties the Plaintiff incurred substantial expenses for hospital, medical care and attention, surgery, x-rays, physicians, rehabilitation, therapy, and may incur additional medical expenses in the future.

17. As a further result of the defendant's breach of its statutory duties, the Plaintiff has endured substantial pain and suffering, loss of sleep and continual discomfort and will continue to do so in the future.

18. As a further result of the defendant's breach of its statutory duties, the Plaintiff's activities and leisure time pursuits have been greatly impaired, interrupted, and/or completely diminished.

19. As a further result of the defendant's breach of its statutory duties the Plaintiff has suffered a loss of income.

20. A written notice of the plaintiff's injury including a general description of the injuries suffered, the cause of the injuries, and the date, time and place of the injuries was provided to the defendant, Town of Oxford, on or about January 15, 2016, a copy of which is annexed hereto as Exhibit A.

COUNT TWO: (C.G.S. §52-557n as to the Town of Oxford)

1. At all times mentioned herein, the Plaintiff, Mary Duford, was and is a resident of Oxford, Connecticut.

2. At all times mentioned herein, the Town of Oxford, was and is a Municipality located in New Haven County in the State of Connecticut.

3. At all times mentioned herein, the defendant Town of Oxford did control, operate and/or supervise the Town of Oxford Department of Public Works.

4. Among the duties imposed upon the agents, servants, and/or employees of the Town of Oxford Department of Public Works was the duty to oversee the public buildings and grounds in the Town of Oxford, to maintain them in a reasonably safe condition and to remedy and repair any unsafe conditions that he knew about, or in the exercise of due care, should have known about.

5. At all times mentioned herein, the sidewalk where the plaintiff fell, identified more fully below, was within the territorial limits of the defendant, Town of Oxford, and was made available for use by the general public.

6. On or about November 17, 2015, the Plaintiff, Mary Duford, was visiting the Oxford town Hall for a public meeting

7. On said date at approximately 8 P.M., after the meeting ended, the Plaintiff, Mary Duford, was walking along the handicap accessible sidewalk that runs from the north side, or 'rear' of the Town Hall building at 486 Oxford Road, Oxford, CT to the parking lot.

8. At all times mentioned herein, the sidewalk, which was a public walkway within the territorial limits of the Town of Oxford, angles abruptly at a point approximately six (6) feet from where it joins the parking lot, causing the normal and expected flow and direction of pedestrian traffic upon the sidewalk to be interrupted.

9. At the point where the sidewalk angles abruptly, there is an approximately 3.5 inch raised berm of turf/grass at the outer edge of the sidewalk which has been cut or trimmed at an approximate 90-degree angle to the walkway surface, in such a way that it creates a vertical stub-toe tripping hazard to pedestrians using the sidewalk.

10. At all times mentioned herein, the lighting in the area was very poor and the walkway was not adequately illuminated making the above described stub-toe hazard imperceptible to persons using the sidewalk.

11. At all times mentioned herein there was also a handrail along one side of the sidewalk, which handrail was defective in that it leaned and angled inwards at the point where the sidewalk angled abruptly, thereby forcing pedestrian traffic to move outwards, away from the encroaching railing and towards the vertical stub-toe tripping condition.

12. As the plaintiff was proceeding along the sidewalk, she came to the area where the sidewalk angles abruptly and she was caused to trip and fall when her foot struck the above described vertical stub-toe tripping condition and she suffered the injuries set forth below.

13. At all times relevant hereto, the plaintiff, Mary Duford, was in exercise of due care.

14. The injuries and losses suffered by the plaintiff were caused by the carelessness and negligence of the agents, servants, employees or officers of the defendant, Town of Oxford in one or more of the following ways:

a. In that they caused, permitted and/or allowed the sidewalk where the plaintiff fell to be unsafe for travel because of the presence of an abrupt, hard angle in the sidewalk with a dangerous stub-toe tripping condition at its outer edge and the inward leaning handrail forcing pedestrians to walk towards the hazardous stub-toe tripping condition all in an area with poor and inadequate lighting;

b. In that they knew or, in the exercise of reasonable care, should have known that the sidewalk was not safe due to the existence of the above described hazards yet they failed to repair, redesign, fix or otherwise remedy the hazardous conditions upon the sidewalk despite having ample time to do so.

c. In that they failed to inspect the sidewalk to ensure that it was reasonably safe for travel.

d. In that they created the unsafe stub-toe tripping condition by negligently cutting and/or trimming a hard, vertical edge into the grass and earth at the edge of the sidewalk.

e. In that they negligently failed to remove the hard, vertical berm of earth and grass, failed to keep the grass and earth level and flush with the sidewalk surface and/or otherwise failed to remedy the unsafe stub-toe tripping condition.

f. In that they negligently created the unsafe condition by causing the sidewalk to angle abruptly just prior to where it adjoins the parking lot, so as

to interrupt the normal and expected flow and direction of travel upon the sidewalk.

g. In that they negligently and improperly installed and/or maintained the handrail alongside the sidewalk in such a manner that it leaned inwards, encroaching the path of pedestrians on the sidewalk.

h. In that they negligently maintained the sidewalk, with all of the aforementioned unsafe conditions in an area with inadequate and insufficient lighting.

i. In that they failed to warn pedestrians of the hazardous and dangerous condition of the sidewalk, including the vertical stub-toe tripping condition.

j. In that they maintained the sidewalk in a dangerous and unsafe condition, and not in compliance with applicable codes and regulations.

k. In that they failed to take the necessary steps to make the sidewalk safe, including eliminating the vertical stub-toe tripping condition to make it flush with the sidewalk surface; straightening the hard abrupt angle at the end of the sidewalk or enlarging the end of the sidewalk so that the normal and expected flow and direction of travel on the sidewalk would not be interrupted; repairing the handrail so that it would not be leaning inwards and encroaching upon the path of pedestrians, and maintaining adequate and sufficient lighting of the sidewalk, despite having reasonable time to take all of these steps to make the sidewalk safe.

15. As a result of the carelessness and negligence of the defendant's agents, servants, employees or officers, the Plaintiff, Mary Duford, has suffered the following serious and painful injuries, some or all of which may be permanent in nature:

a. Injury to her right ankle;

- b. Avulsion fracture of the anterior process of the Calcaneus bone of the right ankle;
- c. Disruption of the ligaments and soft tissues of the right ankle;
- d. Midfoot contusion and pain;
- e. Chronic right ankle and foot pain; and,
- f. Limitation of motion of the right ankle.

16. As a further result of the carelessness and negligence of the defendant's agents, servants, employees or officers, Plaintiff Mary Duford incurred substantial expenses for hospital, medical care and attention, surgery, x-rays, physicians, rehabilitation, therapy, and may incur additional medical expenses in the future.

17. As a further result of the carelessness and negligence of the defendant's agents, servants, employees or officers, Plaintiff Mary Duford has endured substantial pain and suffering, loss of sleep and continual discomfort and will continue to do so in the future.

18. As a further result of the carelessness and negligence of the defendant's agents, servants, employees or officers, the Plaintiff's activities and leisure time pursuits have been greatly impaired, interrupted, and/or completely diminished.

19. As a further result of the carelessness and negligence of the defendant's agents, servants, employees or officers, the Plaintiff has suffered a loss of income.

20. At all times relevant hereto, the carelessness and negligence of the defendant's agents, servants, employees or officers was the result of a breach of ministerial duties that they were obligated to perform.

21. In the alternative, if defendant's agents, servants, employees or officers were engaged in the performance of a discretionary duty, then the plaintiff was an identifiable person, or included in a class of person's who were the subject of imminent harm by the defendant's agents, servants, employees or officers failure to properly perform their discretionary duties.

22. Pursuant to Connecticut General Statutes §52-557n, the defendant Town of Oxford is liable for the negligent acts and/or omissions of its agents, servants, employees or officers.

COUNT THREE: As to Paul Chipman d/b/a Cedar Ridge Nursery

1. At all times mentioned herein, the Plaintiff, Mary Duford, was and is a resident of Oxford, Connecticut.

2. On or about November 17, 2015, the Plaintiff, Mary Duford, was visiting the Oxford town Hall for a public meeting

3. On said date at approximately 8 P.M., after the meeting ended, the Plaintiff, Mary Duford, was walking along the handicap accessible sidewalk that runs from the north side, or 'rear' of the Town Hall building at 486 Oxford Road, Oxford, CT to the parking lot.

4. At all times mentioned herein, the sidewalk, which was a public walkway within the territorial limits of the Town of Oxford, angles abruptly at a point approximately six (6) feet from where it joins the parking lot, causing the normal and expected flow and direction of pedestrian traffic upon the sidewalk to be interrupted.

5. At the point where the sidewalk angles abruptly, there is an approximately 3.5 inch raised berm of turf/grass at the outer edge of the sidewalk which has been cut or trimmed at an approximate 90-degree angle to the walkway surface, in such a way that it creates a vertical stub-toe tripping hazard to pedestrians using the sidewalk.

6. At all times mentioned herein, the lighting in the area was very poor and the walkway was not adequately illuminated making the above described stub-toe hazard imperceptible to persons using the sidewalk.

7. At all times mentioned herein there was also a handrail along one side of the sidewalk, which handrail was defective in that it leaned and angled inwards at the point where the sidewalk angled abruptly, thereby forcing pedestrian traffic to move outwards, away from the encroaching railing and towards the vertical stub-toe tripping condition.

8. As the plaintiff was proceeding along the sidewalk, she came to the area where the sidewalk angles abruptly and she was caused to trip and fall when her foot struck the above described vertical stub-toe tripping condition and she suffered the injuries set forth below.

9. At all times relevant hereto, the plaintiff, Mary Duford, was in exercise of due care.

10. At all times mentioned herein, the sidewalk where the plaintiff fell was owned and controlled by the Town of Oxford.

11. At all relevant times, the defendant Paul Chipman, d/b/a Cedar Ridge Nursery, was responsible for maintaining the grounds where the above described sidewalk was located, pursuant to a contract or agreement with the Town of Oxford.

12. The plaintiff's fall and injuries were due to the negligence and carelessness of Defendant Paul Chipman, d/b/a Cedar Ridge Nursery, his agents, servants and/or employees, in one or more of the following ways:

- a. in that he/they had a duty to maintain the walkway in an orderly manner, yet failed to do so;
- b. in that he/they failed to inspect, or adequately inspect said walkway in order to ensure its safety;
- c. In that he/they created the unsafe stub-toe tripping condition by negligently cutting and/or trimming a hard, vertical edge into the grass and earth adjoining the edge of the sidewalk;
- d. In that he/they negligently failed to remove the hard, vertical berm of earth and grass, failed to keep the grass and earth level and flush with the sidewalk surface and/or otherwise failed to remedy the unsafe stub-toe tripping condition.;
- e. In that he/they failed to warn pedestrians of the hazardous and dangerous condition of the sidewalk, including the vertical stub-toe tripping condition presented by the hard, vertical edge that he/they cut into the grass and earth adjoining the sidewalk.

13. As a result of the carelessness and negligence of the Defendant Paul Chipman, d/b/a Cedar Ridge Nursery, his agents, servants, employees or officers , the Plaintiff, Mary Duford, has suffered the following serious and painful injuries, some or all of which may be permanent in nature:

- a. Injury to her right ankle;
- b. Avulsion fracture of the anterior process of the Calcaneus bone of the right ankle;
- c. Disruption of the ligaments and soft tissues of the right ankle;
- d. Midfoot contusion and pain;
- e. Chronic right ankle and foot pain; and,
- f. Limitation of motion of the right ankle.

14. As a further result of the carelessness and negligence of the Defendant Paul Chipman, d/b/a Cedar Ridge Nursery, his agents, servants, employees or officers, Plaintiff Mary Duford incurred substantial expenses for hospital, medical care and attention, surgery, x-rays, physicians, rehabilitation, therapy, and may incur additional medical expenses in the future.

15. As a further result of the carelessness and negligence of the Defendant Paul Chipman, d/b/a Cedar Ridge Nursery, his agents, servants, employees or officers, Plaintiff Mary Duford has endured substantial pain and suffering, loss of sleep and continual discomfort and will continue to do so in the future.

16. As a further result of the carelessness and negligence of the Defendant Paul Chipman, d/b/a Cedar Ridge Nursery, his agents, servants, employees or officers, the Plaintiff's activities and leisure time pursuits have been greatly impaired, interrupted, and/or completely diminished.

PLAINTIFF,
Mary Duford

By  _____

James J. Walker
Leighton, Katz & Drapeau
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(860) 875-7000
Juris No. 40590

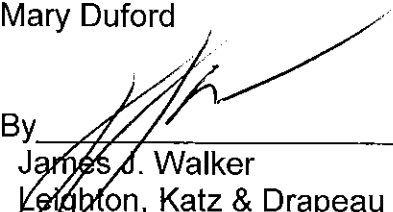
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DEMAND FOR RELIEF

WHEREFORE, the Plaintiff claims:

1. Compensatory Damages;
2. Money damages in excess of \$15,000.00, exclusive of interest and costs;
3. Such other and further relief as the Court deems appropriate.

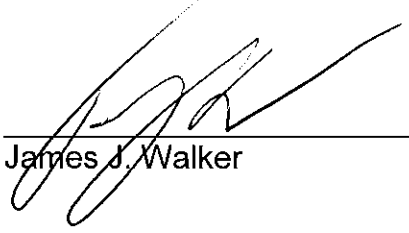
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By 
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Juris No. 40590

CERTIFICATION

The undersigned hereby certifies that a copy of the foregoing was mailed, postage prepaid, to the following counsel of record on March 10, 2017:

James G. Williams, Esq.
Williams Walsh & O'Connor LLC
37 Broadway
First Floor
North Haven CT 06473



James J. Walker